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August 12, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF ORDINANCE AMENDMENTS TO LOS ANGELES COUNTY CODE
TITLE 1 AND TITLE 13; AND DESIGNATION OF THE DEPARTMENT OF
OMBUDSMAN AS THE LEAD AGENCY AND ISSUING DEPARTMENT IN CIVIL
ABATEMENT AND/OR ADMINISTRATIVE FINE AND NONCOMPLIANCE FEE
PROCEEDINGS FOR GRAFFITI OFFENSES
(ALL DISTRICTS – 3 VOTES)**

SUBJECT

The Chief Executive Office (CEO), and Departments of County Counsel, Sheriff, and Public Works are requesting approval of ordinance amendments to Los Angeles County Code Title 1 and Title 13; and designation of the Department of Ombudsman (Ombudsman) as the lead agency and issuing Department in civil abatement and/or administrative fine and noncompliance fee proceedings for graffiti offenses. The Ombudsman is requesting additional funding of \$22,000 in Services and Supplies to implement the Civil Graffiti Program.

IT IS RECOMMENDED THAT YOUR BOARD:

- 1) Introduce, waive reading, and place an ordinance on the subsequent agenda for adoption, amending Chapter 1.25 of Title 1 – General Provisions of the Los Angeles County Code (LACC) relating to administrative fines and noncompliance fees for code violations, and Chapter 13.12 of Title 13 – Public Peace, Morals and Welfare of the LACC relating to graffiti prevention, prohibition, and removal (Attachment I). These amendments will provide that for violations relating to graffiti offenses, a notice of violation may be issued by a

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peace officer or a probation officer on behalf of the issuing County department; authorize the Department Head of the issuing department to approve community service in lieu of payment of an administrative fine or noncompliance fee for graffiti offenses; provide for summary abatement for nuisance violations relating to graffiti and a procedure for the County to recoup its abatement costs and impose a lien or special assessment for unpaid costs against the property of the graffiti perpetrator, or his or her parent or guardian, if applicable; and provide for the County to recoup its graffiti apprehension and abatement costs associated with graffiti offenses caused by minors through the Probation Officer of the County in juvenile court proceedings.

- 2) Designate the Department of Ombudsman to serve as the lead agency and issuing department in civil abatement and/or administrative fine and noncompliance fee proceedings for adult graffiti offenses.
- 3) Cause a certified copy of the ordinance to be forwarded to the Clerk of the Juvenile Court and to the Los Angeles County Probation Officer following adoption of said ordinance.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On October 9, 2007, your Board instructed the CEO, to work with County Counsel, the Sheriff, and Director of Public Works to:

- Designate which department would operate as the lead agency in civil graffiti citation cases;
- Create a pilot project that would: establish a set of civil fines standards whereby graffiti vandals and, in the case involving minors, their parents would automatically be issued a base fine and the cost of graffiti cleanup upon receiving a graffiti citation; establish an Administrative Hearing Panel whose members would convene in graffiti vandalism cases and would provide due process to accused graffiti vandals and, in the case involving minors, their parents in a process similar to traffic court; and
- Determine if existing County ordinances or policies must be amended in order to accomplish the aforementioned directive and, if so, supply the Board with amending language specifically to achieve these objectives.

The recommended changes to the ordinances were submitted to your Board in a November 19, 2007, memorandum and are now being presented for approval in accordance with the recommendations found in our report with the exception of imposing administrative fines and noncompliance fees against a parent or guardian of a

minor who has committed a graffiti violation. Due to a California Welfare and Institutions Code Section, only applicable to Los Angeles County and pertaining to the confidentiality of investigatory reports, the County's ability to process evidentiary aspects of a minor's case in a non-criminal forum is limited. Therefore, administrative fines and noncompliance fees will not be imposed against a violator who is a minor or their parent or guardian, but will be imposed against adult violators who are 18 years of age or older. Instead, cases where a minor has committed a graffiti offense will continue to be prosecuted by the District Attorney (DA), or considered for the DA's Juvenile Offender Intervention Network (JOIN) program which is a voluntary program that provides an alternative to the juvenile court process for nonviolent, first time juvenile offenders. Juvenile offenders are held accountable by acknowledging responsibility for their actions, making restitution, performing community service, attending school regularly, participating in counseling, and remaining arrest free. Additionally, parents of JOIN participants must agree to participate in parenting skills classes.

Vandalism Enforcement Team

Since the November 19th memorandum, the Los Angeles County Sheriff Department (LASD), Pico Rivera Station, created the regional Vandalism Enforcement Team (VET) to combat the proliferation of graffiti and the violent crime that accompanies these vandalism offenses. All but one of the adult and juvenile cases referred by the VET for criminal prosecution have been accepted by the DA's office for filing. Further, 100 percent of the cases which have reached adjudication have led to a conviction. Parents, who are cited to court as part of the juvenile court process, can be held jointly and severally liable with their children for payment of law enforcement costs of identifying and apprehending the minor, costs to the county for graffiti removal, and ordered to participate in parent counseling programs.

VET was implemented in January of 2008 to reduce graffiti and vandalism activity and thus improve the quality of life throughout the community. VET is a multi-faceted group of dedicated law enforcement professionals designed to handle vandalism enforcement from initial investigation and arrest all the way through the adjudication process. VET consists of a LASD Sergeant and four (4) Deputy Sheriff Generalists, a Probation Officer, and a Deputy District Attorney. Support is provided by Los Angeles County Supervisor Gloria Molina, the City of Pico Rivera, and the Los Angeles County Sheriff Department.

Staff assigned to VET work with the Graffiti Tracker (GT) program, which was purchased by the City of Pico Rivera and the County of Los Angeles. GT tracks and analyzes graffiti which enables staff to target the most prolific graffiti vandals (both taggers and gang members) in the community. In addition, staff works closely with local community-based organizations, such as Spirit Family Services, to provide counseling to juvenile offenders and their parents.

Prevention of graffiti involves the entire community and as a result, VET has developed public/private partnerships to assist in these prevention efforts. Staff continuously works with Probation, Public Works, District Attorney, and school districts to ensure the program is successful. Public Works ensures the timely coordination of graffiti removal. In addition, LASD, via School Resource Deputies, educate staff and administrators of schools on how to identify graffiti and characteristics of taggers. The team has also established partnerships with law enforcement (neighboring stations, police agencies, County Counsel), government agencies (parole, city municipalities), and community groups, and private agencies (Graffiti Tracker, Parent Project, and Spirit Family Services) in order to impact vandalism/graffiti/tagging in our service area using a zero tolerance attitude and by instituting the following duties:

- patrolling service areas
- investigating all vandalism graffiti/gang/tagging related crimes
- researching crime using various investigative techniques and databases
- identify suspects and make arrests when appropriate
- interview suspects, witnesses, informants, and involved parties during investigations
- file criminal adult and juvenile cases
- conduct operations, search warrants, and probation searches to collect evidence and intelligence to assist in prosecution
- maintain database on collected information to assist in investigations
- identify and target most active vandals/gang members for prosecution
- identify and target most active areas vandalized, seek solutions and preventative measures to dissuade suspects from future acts of vandalism
- assist with community education and counseling classes for violators and parents/guardians
- track probationers and parolees to prevent recidivism of violators
- assist with tracking/collection of court restitution orders

- augment patrol by responding to calls for service that are vandalism and/or gang related

The VET program is successful because of the following key resources:

- Graffiti Tracker Program
- School Resource Officers/School Police/School Security Officials
- General Public Informants
- Law Enforcement Databases

Civil Graffiti Program

The Civil Graffiti Program will be implemented as a one (1) year pilot project. At the conclusion of the year, an analysis will be completed to determine whether the project should be continued, modified, or terminated. Funding for program costs will be provided to the Ombudsman during fiscal year (FY) 2008-09 supplemental budget phase. If the Civil Graffiti Program proves successful, it will then become one of the many tools utilized by the County to address graffiti.

The Civil Graffiti Program is also intended to serve as an alternative to criminal prosecution. The primary focus of the County's graffiti abatement program is maximum accountability for offenders and restitution for graffiti crimes. We believe this is best accomplished through criminal prosecution. However, if criminal prosecution is not warranted, the Civil Graffiti Program will hold offenders accountable via civil proceedings.

The above mentioned approach, combined with the recommended ordinance changes, will achieve the Board Motion stated objectives. Based upon consultation with County Counsel, Sheriff, and Public Works Department, we recommend that your Board adopt the enclosed ordinance which:

- *Provides that for graffiti offenses relating to the unlawful application of graffiti on trees or structures on any County-owned property or without the permission of the owner or occupant on any non-County-owned property, such violations are subject to enforcement through civil abatement proceedings, and for graffiti offenses committed by any responsible person(s) 18 years of age or older, such violations are subject to enforcement through administrative fine and noncompliance fee proceedings. Graffiti offenses, additionally, will continue to be prosecuted under the Penal Code.*

- *Amends the definition of issuing department to provide that for violations relating to graffiti offenses, a notice of violation may be issued by a peace officer or a probation officer on behalf of the issuing department.*
- *Allows any responsible person(s) 18 years of age or older served with a notice of administrative fine and/or a notice of noncompliance fee for violation of Chapter 13.12 of this code, relating to graffiti, to request to perform community service in a program approved by the issuing department in lieu of payment of the administrative fine and/or noncompliance fee.*
- *Allows the County to recoup its graffiti apprehension and abatement costs associated with graffiti offenses caused by minors through the Probation Officer of the County in juvenile court proceedings; and makes findings that the average cost to the County incurred by the Sheriff Department in identifying and apprehending person(s) associated with graffiti offenses is \$665, and the average cost to the County for removing graffiti and repairing or replacing property defaced with graffiti is \$522 per incident of graffiti vandalism.*
- *Adds a new section to provide a process whereby the County can summarily abate graffiti nuisances and collect abatement and related administrative costs from the graffiti perpetrator and his/her parent or guardian, and may make the unpaid costs a lien or special assessment against the property of the person committing a nuisance, and where the person is a minor, against the property of the parent or guardian having custody and control of the minor. Said process includes that any person served with a graffiti abatement expense statement may file a written request for a hearing on the correctness and/or reasonableness of the abatement costs. The abatement expense may be revised, corrected, or modified based on evidence presented at the hearing.*
- *The CEO has identified the Department of Ombudsman as the lead and issuing department responsible for the Civil Graffiti Citation Program. As the lead agency, the Ombudsman will be responsible for overseeing the administrative hearing process, including conducting the administrative hearing and collecting the administrative fine, noncompliance fee, and restitution. The Ombudsman is requesting additional funding of \$22,000 in Services and Supplies to implement the Civil Graffiti Program.*

Implementation of Strategic Plan Goals

The recommended Board action is consistent with the Countywide Strategic Plan Goal 4: Fiscal Responsibility. Implementation of this recommendation will strengthen the County's fiscal capacity by allowing the Ombudsman to collect an administrative fine, noncompliance fee, and restitution from graffiti perpetrators.

FISCAL IMPACT/FINANCING

Application of graffiti on structures and trees on County-owned property or without the permission of the owner or occupant on any non-County-owned property is unlawful and the perpetrator is responsible for either removal or for the cost of removal if done by the County. The amendments to the County Code allow for administrative fines and noncompliance fees to be assessed against persons who commit graffiti offenses. The amendments also allow for summary abatement of graffiti nuisances and provide a process whereby the County can summarily abate graffiti and recoup its costs through summary abatement proceedings or recover its costs by the County Probation Officer through juvenile court proceedings. Additionally, in cases where any person who commits a graffiti nuisance owns property or is a minor whose parent or guardian owns property, the summary abatement provides a process whereby a lien or special assessment may be imposed against the real property for the unpaid abatement expenses.

While the amendments to the County Code provide additional tools to combat the graffiti problem, the implementation of these enforcement strategies are not meant to be self-sustaining, and the operational staff and costs required to fully implement this program in compliance with the recommended ordinance will likely have an impact on net County cost. It is our recommendation that during FY 2008-09 Supplemental budget phase, \$22,000 in funding be provided to the Ombudsman for the Civil Graffiti Program. Funding will offset additional costs in Services and Supplies as outlined in Attachment II. No additional staff is being requested by the Ombudsman at this time. However, if the program is expanded Countywide, the Ombudsman may require additional funding. Written policy and procedures and forms have been developed to govern the program.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Pursuant to California Welfare and Institutions Code Section 742.14, following adoption of the said ordinance, the County will cause a certified copy of the ordinance containing the findings made by the Board of Supervisors of the average cost to the County incurred by the Sheriff Department in identifying and apprehending person(s) associated with graffiti offenses of \$665 and the average cost to the County for removing graffiti and repairing or replacing property defaced with graffiti of \$522 per incident of graffiti vandalism to be forwarded to the Clerk of the Juvenile Court and to the Los Angeles County Probation Officer.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

By approving the Ordinance amendment, your Board is taking a proactive step to establish administrative fines and noncompliance fees for graffiti offenses; and, therefore, greater consequences for habitual graffiti offenders.

It is the CEO's recommendation that the Civil Graffiti Program is implemented in conjunction with the Sheriff Department's Graffiti Tracker Program and Vandalism Enforcement Team.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF:SRH:RDC
JW:SW:PV:Ilm

c: Sheriff Department
District Attorney
County Counsel
Department of Ombudsman
Department of Public Works

Attachment

Graffiti.Ordinance.bl